

DEC 23 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDUARDO DOMINGO RENOJ MATUL,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-73891

Agency No. A71-588-184

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted November 16, 2005
Pasadena, California

Before: BRIGHT^{**}, B. FLETCHER, and SILVERMAN, Circuit Judges.

Petitioner Eduardo Domingo Renoj Matul, a native and citizen of
Guatemala, petitions for review of the Board of Immigration Appeals' (BIA) denial

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Myron H. Bright, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

of his motions to reopen and to reconsider. Matul argues that the BIA should have granted his motions to administratively close his deportation proceedings because he was eligible for "repapering"¹ under C.F.R. § 240.81(a)(2) and IIRIRA § 309(c)(3). He further argues that the BIA abused its administrative discretion in failing to close his proceedings sua sponte. We affirm.

The BIA did not err in declining to reopen Matul's deportation proceeding because, as Matul concedes, the BIA had already issued a final administrative decision. Paragraph 309(c) of IIRIRA grants the Attorney General discretion to terminate deportation proceedings and to reinstitute removal proceedings, a process known as "repapering," only in those cases "in which there has not been a final administrative decision." Pub. Law No. 104-208, 110 Stat. 3009 (1996).

We lack jurisdiction to review Matul's argument that the BIA should have exercised its sua sponte authority to reopen the proceedings. See Ekimian v. I.N.S., 303 F.3d 1153 (9th Cir. 2002).

Petition DENIED.

¹ "Repapering" is the process by which the Attorney General terminates a deportation proceeding under the pre-IIRIRA rules and commences removal proceedings under the post-IIRIRA rules instead. Alcaraz v. I.N.S., 384 F.3d 1150 (9th Cir. 2004).